

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
vs. ) 3:08-CR-00167-B-1  
 )  
COREY DEYON DUFFEY, )  
 )  
Defendant. )

RESENTENCING HEARING  
BEFORE THE HONORABLE JANE J. BOYLE  
UNITED STATES DISTRICT JUDGE  
MARCH 2, 2022

A P P E A R A N C E S

For the Government:

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Proceedings reported by mechanical stenography,  
transcript produced by computer.

1 (In open court at 10:00 a.m.)

2 THE COURT: Good morning. This is  
3 Case Number 3:08-CR-167. Seen you many times  
4 before. We've got a sentencing in United States v.  
5 Corey Deyon Duffey. We're going do a re-sentencing  
6 today.

7 Who is here for the Government?

8 MS. MITCHELL: Amy Mitchell.

9 THE COURT: Take your mask off, please.

10 MS. MITCHELL: Amy Mitchell and Gary  
11 Tromblay for the Government.

12 THE COURT: Mr. Tromblay, you are back.

13 MR. TROMBLAY: I am back.

14 THE COURT: Ms. Mitchell, nice to see you.  
15 Haven't seen you for a while.

16 And for the defense?

17 MR. JAMPALA: Your Honor --

18 THE COURT: Stand up, please.

19 MR. JAMPALA: Your Honor, my name is Vivek  
20 Jampala. And this is --

21 THE COURT: No, no. Last name?

22 MR. JAMPALA: Jampala.

23 THE COURT: Spell it for me.

24 MR. JAMPALA: J-A-M-P-A-L-A.

25 THE COURT: I've got to get that right.

1 Jampala. Okay.

2 MR. JAMPALA: And this is Mr. John Hunter.

3 MR. HUNTER: Good morning, Your Honor.

4 John Hunter for Mr. Duffey.

5 THE COURT: Speak into the microphone, and  
6 take your mask off, please.

7 MR. HUNTER: Good morning, Your Honor.

8 John Hunter for Mr. Duffey.

9 THE COURT: Mr. Jampala and Mr. Hunter,  
10 and Mr. Duffey is here.

11 THE DEFENDANT: Yes, ma'am.

12 MR. FLANARY: And Don Flanary, Your Honor.

13 THE COURT: Don what?

14 MR. FLANARY: Flanary.

15 THE COURT: Flanary. Okay. We have --  
16 this is a big team of a defense.

17 Okay. All right. If you-all could bring  
18 Mr. Duffey up here.

19 Good morning, Mr. Duffey.

20 THE DEFENDANT: Good morning, Your Honor.

21 THE COURT: How are you?

22 THE DEFENDANT: I'm all right.

23 THE COURT: It's been a while.

24 THE DEFENDANT: Yes, it has.

25 THE COURT: I'm going to ask you lots of

1 questions about the sentencing papers to make sure  
2 you have them all. Have you looked at them all with  
3 your attorney, Mr. Jampala -- right?

4 MR. JAMPALA: Yes, ma'am.

5 THE COURT: Okay. And I want to place you  
6 under oath before I do that.

7 Could you sit down, sir, in the back?

8 (Discussion held off the record.)

9 THE COURT: Raise your right hand, please.  
10 (The Defendant was sworn.)

11 THE DEFENDANT: Yes, Your Honor, I do.

12 THE COURT: And speak up when you talk to  
13 me.

14 Okay, we're going to go through all these  
15 papers.

16 Now, I don't need to go through the  
17 initial ones -- or have you looked at them all?  
18 Have you looked at everything in the sentencing  
19 record up till this sentencing --

20 THE DEFENDANT: Yes, Your Honor I have.

21 THE COURT: -- with Mr. Jampala?

22 Okay. I'm going to start with the second  
23 addendum to the presentence report.

24 Have you read through that paragraph by  
25 paragraph, page by page, with Mr. Jampala before

1 today?

2 THE DEFENDANT: Yes, Your Honor, I have.

3 THE COURT: Do you understand the second  
4 addendum?

5 THE DEFENDANT: Yes, I understand.

6 THE COURT: Any questions about it?

7 THE DEFENDANT: No, Your Honor.

8 THE COURT: Okay. Then I have the third  
9 addendum to the PSR, and I will ask you the same  
10 questions.

11 Have you read through this paragraph by  
12 paragraph, line by line with your attorney,  
13 Mr. Jampala?

14 THE DEFENDANT: Yes, Your Honor, I have.

15 THE COURT: Any questions about it?

16 THE DEFENDANT: No, Your Honor.

17 THE COURT: Okay. And then the Government  
18 accepted the PSR in Document 697. They just  
19 accepted it.

20 Then I have a letter -- but I think it's  
21 followed up by a motion or something -- that you  
22 say -- you're writing to Mr. Lujan, who is the  
23 probation officer, a very nice, lengthy letter about  
24 why you think the First Step Act applies to this  
25 proceeding.

1 Is that right, Mr. Lujan?

2 Mr. -- I'm sorry. Yes, sir. Is it right.

3 MR. JAMPALA: Yes, Your Honor.

4 THE COURT: Has Mr. Duffey read it over.

5 MR. JAMPALA: He has, Your Honor.

6 THE COURT: Mr. Duffey, have you read over  
7 the letter of October the 28th, nineteen- -- I mean  
8 2021 with Mr. Jampala.

9 THE DEFENDANT: Yes, I do.

10 THE COURT: Do you understand all the  
11 contents of it?

12 THE DEFENDANT: Yes, I do.

13 THE COURT: Anything you disagree with?

14 THE DEFENDANT: No, Your Honor.

15 THE COURT: Okay. And then I have the  
16 fourth addendum.

17 Have you read over this carefully with  
18 Mr. Jampala, paragraph by paragraph, page by page  
19 before today?

20 MR. JAMPALA: Your Honor, I was on the  
21 phone with Mr. Duffey. We were not in personal  
22 contact because there was a Covid issue at the jail.  
23 But I did go over that document with him.

24 THE COURT: With him.

25 MR. JAMPALA: Um-hum.

1 THE COURT: Okay. Did you go over it with  
2 Mr. Jampala -- do you agree -- by phone?

3 THE DEFENDANT: Yes, we discussed it on  
4 the phone. Yes, Your Honor.

5 THE COURT: And you understand all the  
6 provisions of it or do you need a second to go over  
7 them? It's okay if you do.

8 THE DEFENDANT: I understand. He  
9 explained it to me in detail.

10 THE COURT: Okay. Okay. Mr. Jampala, do  
11 you agree with that?

12 MR. JAMPALA: I do, Your Honor.

13 THE COURT: All right. Any questions  
14 about it?

15 THE DEFENDANT: No, Your Honor.

16 THE COURT: Then I have the sentencing  
17 memorandum, Document 720, and with all the  
18 certificates and all the letters -- certificates and  
19 all the attachments, I read through all the  
20 attachments.

21 Have you read through Document 720  
22 thoroughly with Mr. Jampala?

23 THE DEFENDANT: Yes, Your Honor, I have.

24 THE COURT: Do you understand it?

25 THE DEFENDANT: Yes, I understand.



1 THE COURT: Any question about it?

2 THE DEFENDANT: No, Your Honor.

3 THE COURT: Mr. Jampala, do you agree with  
4 that?

5 MR. JAMPALA: I agree with that, Your  
6 Honor.

7 THE COURT: Then I have Document 730,  
8 which is the Government's response to Duffey PSR's  
9 objections.

10 Look at that. Have you read through that  
11 carefully with Mr. Jampala before today?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: Paragraph by paragraph?

14 THE DEFENDANT: Yes, Your Honor.

15 THE COURT: Any questions about it?

16 THE DEFENDANT: No, Your Honor.

17 THE COURT: Then I have many letters. I  
18 mean, I've read them all, but there are lots of  
19 letters here for you, and I'm sure you are familiar  
20 with that, correct?

21 THE DEFENDANT: Yes, Your Honor.

22 THE COURT: And there's more letters, and  
23 that's all.

24 Should I have anything more than that?

25 MR. JAMPALA: I believe that's everything,

1 Your Honor.

2 THE COURT: Okay. Anything from the  
3 Government I should have?

4 MS. MITCHELL: That's everything, Your  
5 Honor.

6 THE COURT: Thank you. Be sure to speak  
7 into the mic. I'm so picky about that. Okay.

8 Then I have his disciplinary record.

9 Do you have his disciplinary record?

10 MR. JAMPALA: I do, Your Honor.

11 THE COURT: Have you looked at your  
12 disciplinary record?

13 THE DEFENDANT: Yes, ma'am, I have.

14 THE COURT: I know you contest some of  
15 them, but I want to make sure you've read it over.

16 THE DEFENDANT: Yes, I have.

17 THE COURT: Mr. Duffey, you can take a  
18 seat for right now because we have some legal issues  
19 to take up.

20 And who is going to argue, Mr. Jampala,  
21 the First Step Act application to this sentencing?

22 MR. JAMPALA: That would be me, Your  
23 Honor. I will be taking up that objection, as well  
24 as the question about restraint.

25 THE COURT: Yeah, okay.

1 MR. JAMPALA: And Mr. Hunter will be  
2 handling the rest of the objections.

3 THE COURT: Great. Go ahead.

4 MR. JAMPALA: Regarding the First Step  
5 Act, it's our contention that this is an issue of  
6 what constitutes a valid sentence, and when Congress  
7 passed the First Step Act, what they intended as far  
8 as its retroactivity was regarding valid sentences  
9 and not merely any sentence.

10 The Government does cite to *United States*  
11 *v. Gomez* from the 5th Circuit 2020. And we think  
12 that that is not completely on point, because it  
13 does very much hinge upon the idea of when a  
14 sentence is imposed.

15 It's not our contention that there's some  
16 temporal aspect of the sentencing that makes it --

17 THE COURT: What -- what do you mean by  
18 that?

19 MR. JAMPALA: That there is something  
20 wrong with the dates or that his original sentences  
21 happened prior. Our contention is that those are  
22 not valid sentences at all, and therefore should not  
23 be considered.

24 THE COURT: Now, do you have any cases  
25 right on point?

1 MR. JAMPALA: Not from the 5th Circuit,  
2 Your Honor. But the case cited by the Government,  
3 *United States v. Jackson*, does compare and contrast  
4 their reasoning with the 4th Circuit's reasoning.  
5 Both of these are from the 6th and 4th --

6 THE COURT: Tell me about those cases.

7 MR. JAMPALA: Sure.

8 *Jackson*, the -- it is from the 6th Circuit  
9 Court of Appeals, and it was just decided in April  
10 of this year -- sorry, of last year, excuse me.

11 And the Court decided that the exact  
12 language -- excuse me, let me pull it up -- of the  
13 First Step Act, I believe it's 403(b), Applicability  
14 to Pending Cases.

15 And it states: "This section and the  
16 amendments made by this section shall apply to any  
17 offenses that was committed before the date of  
18 enactment of this act if a sentence for the offense  
19 has not been imposed as of such date of enactment."

20 And it was enacted December 21st of 2018.

21 And, essentially, we are basically  
22 fighting over a term. If a sentence for the offense  
23 has not been imposed. And like I said, the word  
24 "imposed" is not really in question, it's really a  
25 question of what does "a sentence" mean?

1           And regarding this, *Jackson* basically says  
2   that "a sentence" means at the date of  
3   December 21st, the date of enactment, does the  
4   defendant have a sentence?

5           And they go through and they do cite  
6   *Black's Law Dictionary* and *The Chicago Manual of*  
7   *Style* to -- or to reiterate that the tense of the  
8   verb should apply. And this is them quoting from  
9   *Chicago Manual of Style*.

10           THE COURT: Slow down. Slow down, because  
11   you read faster than you talk.

12           MR. JAMPALA: I'm a nervous reader, Your  
13   Honor.

14           THE COURT: I am, too. I talk fast.

15           MR. JAMPALA: This is from *Jackson*. And I  
16   think this is roughly the holding in their --

17           THE COURT: What circuit was that?  
18   Fourth?

19           MR. JAMPALA: Sixth.

20           "In arguing to the contrary, *Jackson*  
21   contends that there was -- that when his sentence  
22   was vacated 'his sentence was rescinded, and there  
23   was no longer a sentence imposed upon him until he  
24   was resentenced.' That argument misconstrues the  
25   First Step Act's retroactivity inquiry. That

1 Jackson was without a sentence for three months in  
2 2019 does not change the fact that as of  
3 December 21, 2018, a sentence had been imposed upon  
4 him. After all, vacatur does not erase Jackson's  
5 prior sentence from history. Vacatur merely 'makes  
6 void' the thing vacated."

7 And they cite the definition of "Vacate"  
8 from *Black's Law Dictionary*.

9 "When that thing becomes void, it is 'of  
10 no legal effect' anymore."

11 And they cite the definition of "Void"  
12 from *Black's Law Dictionary*.

13 "But eliminating a sentence's prospective  
14 legal effect only 'wipes the slate clean' looking  
15 forward." Citing to *Pepper v. United States* from  
16 United States Supreme Court --

17 THE COURT: Slow down. *Pepper v. United*  
18 *States*.

19 MR. JAMPALA: Yes, and I will give the  
20 full citation, I apologize.

21 THE COURT: That's okay.

22 MR. JAMPALA: 562 U.S. 476 at page 507,  
23 and that's from 2011.

24 THE COURT: In that case, did they apply  
25 the First Step Act in the manner that you are

1 requesting?

2 MR. JAMPALA: In *Pepper* or --

3 THE COURT: In either one.

4 MR. JAMPALA: In *Jackson*, no. But right  
5 below that they discuss -- they -- which is their  
6 sister court's -- 4th Circuit -- decision that goes  
7 the other way.

8 THE COURT: Tell me about that.

9 Tell me about the only decision you have  
10 that goes this way.

11 MR. JAMPALA: Well, let me -- I apologize.

12 THE COURT: That's okay. Take your time.

13 I appreciate -- you know, I appreciate the  
14 time.

15 MR. JAMPALA: Regarding the "they," I  
16 am -- I don't think I have a report citation, but  
17 it's *United States v. Bethea*, Number 19-4618 at page  
18 11. This is from the Fourth --

19 THE COURT: What circuit was that?

20 MR. JAMPALA: Fourth Circuit 2021.

21 THE COURT: And did they apply the First  
22 Step Act in the manner you're suggesting?

23 MR. JAMPALA: Yes, they did.

24 THE COURT: So tell me about that case.  
25 Tell me what the facts were.

1 MR. JAMPALA: Let me . . . this was not  
2 necessarily a 924(c) issue. It was regarding the  
3 First Step Act's Amendment to 841. But they do  
4 discuss vacatur, specifically in the context of  
5 having a 2255, I believe.

6 And I'll just quote what I believe is the  
7 proper section here.

8 "In this case, the district court's  
9 vacatur and reentry of judgment nullified Bethea's  
10 original sentence such that a sentence cannot  
11 legally -- cannot legally be said to have been  
12 imposed until 2019. As this Court explained in  
13 *United States v. Hadden*, 2255 contemplates specific  
14 types of remedies in a criminal judgment -- if a  
15 criminal judgment is infirm."

16 And the citation is 475 F.3d 652 at 667 to  
17 668 in 2007.

18 Quoting from that: "The end result --"

19 THE COURT: Slow down.

20 MR. JAMPALA: Sorry.

21 "'The end result of a successful 2255  
22 proceeding must be the vacatur' of a sentence  
23 followed by a remedy (1) granting release; (2)  
24 granting a new trial, or (3) granting a 'new  
25 sentence, be it imposed by (a) a resentencing or (b)



1 a corrected sentence.'" "

2 "A corrected sentence 'is an entirely new  
3 sentence,' which permits a direct appeal from its  
4 imposition as part of the individual's original,  
5 criminal case."

6 And they cite back to the same case at  
7 664.

8 "And a 'new' sentence is imposed by  
9 correction even if that correction merely changes  
10 the date to permit appeal."

11 And they go on to explain their reasoning  
12 a little bit more.

13 THE COURT: No, that's okay. That's okay.  
14 All right. Just tell me else you have besides those  
15 cases.

16 MR. JAMPALA: Those are the, I -- I think  
17 the two most developed cases on the issue that  
18 directly talk about the types of, I guess,  
19 interpretation as regarding retroactivity and the  
20 question of what constitutes a sentence, whether it  
21 is merely a valid sentence or any sentence that is a  
22 historical fact.

23 I think that the 4th Circuit is correct on  
24 this, because it is often the case in a courtroom,  
25 especially in a criminal context, that we do not

1 deal necessarily with historical facts. We deal  
2 with legal facts.

3 I think the 4th Amendment jurisprudence is  
4 the exclusionary rules are completely based on this.  
5 We do not use facts that, even though they may be  
6 true and historically true, but they maybe run afoul  
7 of the law and we toss those facts out. And we have  
8 a legal fact that this individual did not find --  
9 the officer did not find any contraband or a  
10 confession was not found to be lawfully received  
11 from the defendant, and, therefore, there was no  
12 confession at all.

13 And this also happens in the context of  
14 being able to deny an arrest happened. It happens  
15 after expunction. It happens -- I'm unsure about  
16 this, but I believe a presidential pardon has  
17 certain effects of altering historical facts and  
18 having the legal fact be different.

19 THE COURT: Okay. Anything else?

20 MR. JAMPALA: I will say the use of the  
21 words of the First Step Act, I do believe, are  
22 important.

23 Convictions and sentences are overturned  
24 all the time, and they can be overturned on direct  
25 appeal or by writ.

1           And Congress, if they did want to have a  
2   firm date anchored to historical facts, could have  
3   used the factual basis as the anchoring date, which  
4   they chose not to do. They could have used the date  
5   of the indictment, which was served as a basis of  
6   conviction to also serve as a date, the date that  
7   the indictment came down, which is also fixed. And  
8   barring a motion to quash at the (inaudible) level,  
9   stays in place.

10           As opposed to doing that, they chose the  
11   word, "a sentence." And sentences -- the date of  
12   that sentence and resentencing, as you know, we are  
13   here for the third time historically, first time  
14   legally.

15           THE COURT: Well, the first time wasn't my  
16   fault. The second time I don't think was my fault.  
17   I don't know. I just think the law has changed.

18           Okay. Anything else?

19           MR. JAMPALA: Regarding this issue, I will  
20   say, Your Honor, I believe *Jackson* is actually  
21   pending cert in the Supreme Court. I think by this  
22   Friday, they should have a decision as to whether or  
23   not they want to pick that up. But either way, I do  
24   think there is a circuit split, if not a developing  
25   circuit split.

1 I do want to make the Court aware that I  
2 believe the "they" is unpublished, but it is treated  
3 with -- well, the opinion, itself, has a great deal  
4 of analysis. And the 6th Circuit seems to treat it  
5 with the intellectual rigor, which I believe it  
6 deserves.

7 THE COURT: Thank you, Mr. Jampala.  
8 I would like to hear from Ms. Mitchell.  
9 Be sure to talk into the mic.

10 MS. MITCHELL: The first thing I would  
11 like to say is, I would confirm that *Bethea* is an  
12 unpublished decision. It was a --

13 THE COURT: What decision was that?

14 MS. MITCHELL: *Bethea*.

15 THE COURT: Okay. And where was that out  
16 of?

17 MS. MITCHELL: That is the 4th Circuit.

18 It is unpublished, and it is a two-one  
19 decision. And the dissent on that case actually  
20 falls on the side of the *Jackson* case.

21 And also *Jackson*, last time I checked, it  
22 was also -- I believe it is also pending cert.  
23 Perhaps it is a developing circuit split, but it is  
24 not one yet, because there's no published decision  
25 out of the 4th Circuit that goes the other way.

1 It -- because it's unpublished.

2 As to the underlying argument, the  
3 5th Circuit has drawn the same line as the  
4 11th Circuit and the 6th Circuit, and that line is  
5 the date of enactment.

6 THE COURT: What do you mean the date of  
7 enactment?

8 MS. MITCHELL: The date of enactment for  
9 the amendment. I'm sorry.

10 THE COURT: Okay.

11 MS. MITCHELL: So the First Step Act  
12 Amendment went into effect December 21st, 2018. And  
13 as of that date, Mr. Duffey was serving a valid  
14 sentence. This Court's sentence was imposed first  
15 in 2010, and the second resentencing was in 2012.

16 He was serving that sentence on the day of  
17 enactment. And that is the date that the  
18 5th Circuit looked at in *Gomez*. That's the date  
19 that the 6th Circuit looked at in *Jackson*. It's the  
20 date that the 11th Circuit looked at in *Smith*.  
21 Which the *Smith* case is the one I referenced in my  
22 response to the defendant's objections.

23 So it's the Government's position that the  
24 best reading of the statutory -- or the amendment's  
25 language, itself, is that, was there a valid

1 sentence on the date of enactment, and if there was,  
2 the amendment does not apply.

3 So it's our position that the subsequent  
4 924(c)'s should continue to be 25 years.

5 THE COURT: Okay. Thank you very much,  
6 Ms. Mitchell.

7 MS. MITCHELL: Thank you.

8 THE COURT: Okay. I think I have heard  
9 enough about this, unless you have something else,  
10 Mr. Jampala, but I would like to rule.

11 Mr. Jampala, are you ready?

12 MR. JAMPALA: Ready, Your Honor.

13 THE COURT: You know, I think you make an  
14 interesting argument. And if this becomes a circuit  
15 split, we will deal with it at that time. But I  
16 don't think it is a circuit split, and I am very  
17 convinced that the date of enactment out of the 5th  
18 Circuit and the 11th Circuit are the correct dates.

19 I don't see how someone can't be serving a  
20 sentence when they are serving a sentence. And I  
21 think that Probation dealt with this very well in  
22 the fourth addendum. And, you know, you can read  
23 into it what you like, but I -- on page 2 of the  
24 presentence report, they give a nice analysis.

25 The First Step Act was enacted on

1 December 21st, 2018, as Ms. Mitchell has pointed  
2 out, at which time the defendant was serving a  
3 sentence of imprisonment imposed by the Court.  
4 Therefore, the amendment to 924(c) is not  
5 retroactive to this case. And as such, the  
6 mandatory minimum sentences for 27, 31, 35 and 39 is  
7 25 years or 300 months.

8 So I also think the Government's response  
9 has some good language in there, and I adopt it, and  
10 I'm going to overrule the objection.

11 Okay. Who's got the next objection?

12 MR. JAMPALA: Me again, Your Honor.

13 THE COURT: Okay.

14 MR. JAMPALA: Regarding the second  
15 objection, I believe that has to do with primarily  
16 the issue of restraint and the two-point adjustment  
17 regarding physical restraint.

18 And the crux of our argument here is that  
19 the issue of physical restraint and a gun is always  
20 difficult. But the case law on this, specifically  
21 in *Garcia*, is pretty clear. Merely because somebody  
22 points a gun, even if it is touching another  
23 individual, does not necessarily mean that they are  
24 confining them or using physical restraint.

25 There's a case here that they do cite

1 regarding the 8th Circuit, and I will briefly cite  
2 *United States v. Garcia*.

3 THE COURT: Okay.

4 MR. JAMPALA: 857 F.3d 708, 5th Circuit  
5 2017.

6 "In *Stevens*, for example, the 8th Circuit  
7 upheld a physical restraint enactment because the  
8 defendant 'moved bank employees to two distinct  
9 locations at gunpoint and closed them in a vault  
10 under circumstances clearly implying they should  
11 remain there or risk physical harm.'"

12 I do think moving someone around is the  
13 exact opposite of restraint. I think that much is  
14 pretty obvious. But what -- the difference in  
15 *Stevens* in the 8th Circuit, what made that an actual  
16 restraint is that moving them around to a vault and  
17 then closing that vault door behind them is very  
18 much restraining the actions confined to a certain  
19 location and also the threat of force if they move  
20 from that location implied by the specific facts of  
21 that case.

22 I don't believe we have that here. I  
23 believe that merely a bank manager was moved at  
24 gunpoint. And I believe that that is not sufficient  
25 to trigger any issue regarding physical restraint.



1           There's a law, the case argument that is  
2     made, but I will say that *Garcia* makes this  
3     distinction very clear, and it's from 2017. And  
4     it's -- that argument would not have been able to  
5     have been made prior to this, as far as the -- that  
6     kind of hairline distinction.

7           And I -- I know that the previous  
8     objection was overruled. But I will say, a vacated  
9     sentence would put this case on a footing where  
10    those objections and the law of the case would not  
11    apply.

12           THE COURT: Thank you, Mr. Jampala. I'll  
13    get used to that.

14           Ms. Mitchell.

15           MS. MITCHELL: It's the Government's  
16    position that this two-level enactment for physical  
17    restraint is the law of the case. This enactment  
18    was present in the 2010 PSR. It was present in the  
19    2012 addendum. It was not challenged at that point.  
20    This case has gone through two direct appeals on  
21    those sentences, and it is the law of the case.

22           And I think that's even more important  
23    here, where the Court's jurisdiction is cabined by  
24    this being the outgrowth of a successive 2255.

25           The 5th Circuit authorized the Court to

1 look at the -- the now invalid 924(c)'s and anything  
2 related to that in resentencing. I think that makes  
3 it sort of more important that this be cabined into  
4 the law of the case.

5 Secondly, this -- the law was less clear  
6 in 2010 and 2012 than it is now. The actions that  
7 these defendants took in moving the bank employees  
8 around the bank at gunpoint would be considered  
9 kidnapping, and it would be that four-level  
10 enhancement that would apply.

11 The Government isn't asking for that,  
12 because it's our position that it's the law of the  
13 case, and the two-level enhancement should stay the  
14 way that it is.

15 Thank you.

16 THE COURT: Mr. Jampala, anything else?

17 If you want to speak, come up here,  
18 please.

19 MR. HUNTER: If I could briefly respond,  
20 Your Honor.

21 THE COURT: Yes, absolutely.

22 I don't usually like double-teaming, but I  
23 will let you do it.

24 MR. HUNTER: I appreciate it. I will be  
25 up for the next objection, as well.

1 THE COURT: Um-hum.

2 MR. HUNTER: With respect to the concern  
3 about the law of the case, while I can appreciate  
4 the concept, certainly, I think that we sort of have  
5 to roundabout to the same thematic concern  
6 Mr. Jampala raised when we discussed the First Step  
7 Act. And that is that the prior outcome, the prior  
8 sentencing in this case -- and certainly I -- I  
9 think the Court did an able well job in both those  
10 instances. As you said, that wasn't your fault, the  
11 law just changed.

12 THE COURT: Yeah.

13 MR. HUNTER: But those sentences and the  
14 underlying rationale behind them have been vacated.  
15 And there is a principle there that I think was laid  
16 out in I think both of the definitional authorities  
17 Mr. Jampala cited to, Your Honor, about what vacatur  
18 really means in terms of it being void ab initio,  
19 having been voided as though it didn't occur.

20 THE COURT: But do you have any cases that  
21 allow me to consider something like restraint at  
22 this stage, the third sentencing?

23 MR. HUNTER: Well, Your Honor, the  
24 question would be based upon --

25 THE COURT: That's my question, but go

1 ahead.

2 MR. HUNTER: I think, to look at that, we  
3 need to look at the rationale that *Bethea* talks  
4 about that Mr. Jampala cited to you about the  
5 consequences of 2255 relief --

6 THE COURT: But I just want to know.  
7 Before you get into that, do you have any cases  
8 right on point?

9 MR. HUNTER: Directly on point, Your  
10 Honor, no, I do not.

11 THE COURT: Okay. Go ahead.

12 MR. HUNTER: What I would suggest to you  
13 is that the underlying rationale in *Bethea* is on  
14 point in the sense that overarching all of this, we  
15 are here before you today because 2255 relief was  
16 granted. And in that 2255 relief, the sentences  
17 were vacated. The convictions that were subject to  
18 the Davis analysis were vacated, so we begin with a  
19 clean slate.

20 So why should we presume that we proceed  
21 with a clean slate, but then the law of the case  
22 would require us to have to be bound by the  
23 objections and the decisions of trial counsel in  
24 those original proceedings.

25 To me, that -- that would be great

1 difficulty, because the -- there are lots of things  
2 that have advanced and developed. I mean, certainly  
3 this was a case that was calculated on the 2008  
4 guidelines. The manual has been updated. The  
5 commentary and the practice advisory notes for the  
6 manual continue to get added to. And of course  
7 there's a bevy of new decision-making every year.

8 I think what we can glean from the  
9 decision-making that's been put forward about  
10 restraint is that there has been considerable  
11 discussion of it. And the Court has acknowledged  
12 there is a definitional component of things that  
13 might look like restraint in the sense they are  
14 violent, they are scary, but they don't meet the  
15 legal standard of what restraint really means under  
16 the guidelines.

17 I would find it hard to believe that the  
18 Court would be bound by that decision now if, in  
19 fact, vacatur really is what it purports to be and  
20 that we have a new chance for a sentencing here.

21 THE COURT: Thank you very much.

22 Ms. Mitchell.

23 MS. MITCHELL: I think I would just  
24 reiterate what I said about these were not  
25 previously challenged. The facts underlying this

1 have not changed. You know, the facts, as they were  
2 set out in the PSR and that you heard at trial,  
3 haven't changed since 2010 when this case was first  
4 sentenced.

5 The fact that it was never challenged  
6 before, the fact that it's been through two previous  
7 5th Circuit appeals on sentencing specifically, it  
8 is the law of the case. And even if the Court were  
9 to reconsider it now, as I said, I think there is a  
10 very strong argument this would be kidnapping if  
11 this was sentenced as a clean slate today, and it  
12 would be four-level enhancement.

13 THE COURT: Okay. Thank you.

14 MR. JAMPALA: One other thing.

15 THE COURT: Come on up.

16 MR. JAMPALA: You asked about, you know,  
17 decision-making on point. And while the facts of  
18 this case have not changed, the law has, in fact,  
19 progressed since that first 2008 sentence was  
20 imposed.

21 In 2017, *United States v. Garcia* was  
22 decided, which is a 5th Circuit case. We cite to  
23 this in our briefing. So there has been a material  
24 change in the law that the Court did not have the  
25 benefit of when it imposed that original sentence.

1 THE COURT: Does it say the facts here  
2 would not be restraint?

3 MR. JAMPALA: Well, the premise of *Garcia*  
4 is that -- that just simply the fact that use of a  
5 gun and brandishment of a gun might have been used  
6 to physically restrain someone doesn't actually mean  
7 it actually meets the enhancement requirements.  
8 It's a restriction of freedom of movement.

9 So the Court in *Garcia* stated, "We  
10 concluded that merely brandishing a weapon --"

11 THE COURT: Slow down, just because you're  
12 reading.

13 MR. JAMPALA: Sorry, Your Honor. I'm an  
14 old debater, and, regrettably, they always rewarded  
15 us for talking so fast.

16 THE COURT: I know. I watched some  
17 debates and wondered why they talked so fast.

18 MR. HUNTER: It's madness. It's a perfect  
19 example of an ant that branches off from the main  
20 group and forms a circle with the rest of the people  
21 behind it.

22 "Yet, we concluded that merely brandishing  
23 a weapon at a victim cannot support an enhancement  
24 under this section of the guidelines, because, were  
25 it otherwise, enhancement would be warranted every

1 time an armed robber entered a bank, for a threat  
2 not to move is implicit in the very nature of armed  
3 robbery."

4 And I believe, if the Court will recall,  
5 these were very quick robberies. These were  
6 robberies being effectuated in minutes, not even  
7 quarters of an hour.

8 And with that kind of time period, with  
9 the way this operation was being conducted, I think  
10 factually we can conclude that this was very much  
11 like *Garcia* that, yes, people had guns pointed at  
12 them and they had to take action as a consequence of  
13 having a gun pointed at them. But that doesn't  
14 quite meet the threshold, because implicit in every  
15 armed robbery is that same notion.

16 So I would say that that is a significant  
17 enough of a change in the law that the Court isn't  
18 bound by the law of the case in this instance  
19 despite the fact that the facts haven't changed.

20 THE COURT: Thank you very much.

21 I do think it's the law of the case. But  
22 even if it weren't, the original presentence report  
23 noted that on April 24th of 2008, the defendants and  
24 codefendants entered Bank of America and robbed the  
25 bank in a takeover fashion.



1           This is very different than walking in  
2 with a gun and saying, "Put all your money in a bag,  
3 and I will get out of here."

4           The defendant -- all four defendants wore  
5 masks and gloves and were armed with handguns. One  
6 was armed with a rifle. The other carried a taser.  
7 All the employees feared for their lives and were  
8 put on the floor at gunpoint. One codefendant,  
9 referred to as a participant, used a stun gun three  
10 times to shock a bank employee who he thought was  
11 lying about being the manager.

12           One defendant jumped the counter, teller  
13 counter, and hit the manager over the head with an  
14 unknown object after he suspected the manager was  
15 going to activate the alarm.

16           When a defendant asked for the manager,  
17 the manager acknowledged himself, and a gun was  
18 pointed at his head. The manager advised  
19 participants that she needed a second person in  
20 order to open the vault. The manager was tasered on  
21 her arm and told to hurry up.

22           Blah-blah-blah.

23           So I think that's more than enough facts  
24 to support restraint under the new or old law, but I  
25 think it's the law of the case in any event, and I

1 overrule the objection.

2 So what's the next objection?

3 MR. HUNTER: Your Honor, our next  
4 objection is to the application of the five-point  
5 enhancement in the calculation of the base offense  
6 level for Group 1.

7 THE COURT: Yeah.

8 MR. HUNTER: Group 1 presently consists of  
9 a felon in possession of a firearm count and a  
10 conspiracy to commit bank robbery count.

11 The -- in the original presentence report,  
12 the enhancement at issue here could not have been  
13 applied because there was a 924(c) conviction as  
14 well in that grouping. And the guidelines expressly  
15 prohibit the use of that five-point upward  
16 adjustment when there is within the group a 924(c)  
17 count, as well.

18 But as a consequence of the 5th Circuit's  
19 relief --

20 THE COURT: Yeah.

21 MR. HUNTER: -- that 924 --

22 THE COURT: The last appeal, the second  
23 appeal --

24 MR. HUNTER: The -- the 5th Circuit --

25 THE COURT: Third appeal.

1 MR. HUNTER: Right. Exactly -- has  
2 eliminated that 924(c), and so now the presentence  
3 report reflects this five-point increase.

4 But I would submit to you, Your Honor --  
5 and certainly if we're going talk about is there a  
6 decision on point, no. I looked and looked and  
7 looked.

8 But I think if we look at how the  
9 application notes of the guidelines try to walk us  
10 through this principle, there's a lot of concern  
11 about double counting in situations where firearm  
12 enhancements are available in a non-firearm-based  
13 offense like conspiracy to commit bank robbery.

14 And that makes a lot of sense, because  
15 there are oftentimes going to be companion offenses  
16 charged in conjunction with a bank robbery. And  
17 there will be necessarily, then, a lot of temptation  
18 to, you know, count coup on that gun for multiple  
19 enhancements across the board, and I think that's  
20 what's happening here. And I think it is not  
21 dissimilar from the other rationale that are set  
22 forth in the guidelines.

23 I would like to walk through a couple of  
24 provisions.

25 THE COURT: Absolutely.

1 MR. HUNTER: 2B3.1, in the commentary  
2 section of the guidelines, there is a provision on  
3 double counting. And in particular, it talks about  
4 how the enhancement for brandishment or possession  
5 of a dangerous weapon is not double counting in a  
6 bank robbery prosecution --

7 THE COURT: Slow down a little bit.  
8 You're talking fast again.

9 MR. HUNTER: It's not double counted in a  
10 bank robbery prosecution, because the possession of  
11 a weapon is not an element of that offense.

12 So if -- if it was just a conspiracy to  
13 commit bank robbery, there wouldn't be a -- a  
14 concern here, because the bank robbery, itself,  
15 doesn't have a gun as a component.

16 But because this group has tethered into  
17 it, felon in possession of a firearm, we are being  
18 hit on Mr. Duffey from both directions. He's  
19 getting a five-point enhancement for the calculation  
20 of his offense total because there was a  
21 brandishment of a firearm. But the brandishment of  
22 the firearm was already taken under consideration by  
23 the Commission when they recommended a guideline  
24 range for the felon in possession of a firearm which  
25 has been grouped into our count.

1           So I think that we can recognize plainly  
2     that an element of felon in possession of a firearm  
3     is a gun. So it would strike me that having it be  
4     taken that way doesn't quite work.

5           And the Government, in their response to  
6     our objections, seems to imply that this is a  
7     meritless argument, because the gun is only being  
8     considered as an enhanceability ability factor in  
9     the conspiracy to commit bank robbery.

10          But I think that that's just simply  
11     another way of saying that perhaps it isn't a  
12     problem ever if there isn't any direct additional  
13     consequence for applying the enhancement on the less  
14     severe charge within the group. And I don't think  
15     that that necessarily follows.

16          I mean, consequences are not what we're  
17     looking at entirely. It's about, are we  
18     intellectually entitled to use this same element,  
19     this same legal factor, I mean, historical fact  
20     multiple times in our calculation irrespective of  
21     what the math comes out to at the end. I don't  
22     think that that follows. We are being prejudiced by  
23     its consideration.

24          THE COURT: Okay. But you have no cases  
25     on point. Right?

1 MR. HUNTER: No, Your Honor. I'm still  
2 walking you through my application note analysis.  
3 But I don't -- I can't find a case that has  
4 addressed these two things together.

5 I will submit that the Government was  
6 unable to cite a case, either, in its contention  
7 that this is a meritless argument. I like to think  
8 that just means that this is a new one --

9 THE COURT: We will adopt it as a new one.

10 MR. HUNTER: -- and we should pay special  
11 attention.

12 The -- the rationale that's given for why  
13 924(c)'s can't get this enhancement -- rather, why a  
14 bank robbery can't get this enhancement if there's a  
15 companion 924(c) in the group, I think is also  
16 instructive for why we are correct.

17 Pursuant to the application notes to the  
18 guideline applicable to firearm convictions, a  
19 firearm enhancement cannot be added if the defendant  
20 has been separately convicted and sentenced under  
21 18 U.S.C 924(c) for using a firearm --

22 THE COURT: Slow down.

23 MR. HUNTER: -- for using a firearm in the  
24 same robbery.

25 What this strikes me as is, the Supreme

1 Court has always, you know, emphasized Blockburger  
2 over transactional jeopardy, that the Commission  
3 recognizes the implicit need for that fairness to  
4 prevent transactional jeopardy. It doesn't want  
5 courts to be using these things over and over again.

6 I recognize that double counting illegally  
7 occurs in the guidelines all over the map, and that  
8 fundamentally most of the arguments that are made  
9 about this are made purely on whether the Commission  
10 has said explicitly that they can or that they  
11 can't.

12 But I do think there is a due process  
13 concern that needs to be factored in here. And I do  
14 think, based upon what the Commission has laid out  
15 for us in all of these very similar examples, that  
16 it would logically flow.

17 I think that if the Commission had been  
18 asked this question outright and explicitly, it  
19 would have been considered this way, the way that  
20 I'm submitting to you; and that there's a due  
21 process reason why, even absent express guidance  
22 from the Commission about the factor that the Fifth  
23 Amendment would still prohibit the double counting  
24 here.

25 Lastly, Your Honor, I think that there is

1 always a secondary concern, a due process concern,  
2 when a defendant is up on resentencing and some kind  
3 of a hoist on his own batard-type instance like this  
4 occurs; in other words, that under the previous  
5 iterations of the presentence report that have been  
6 entertained by Your Honor, this was something not up  
7 for discussion because the 924(c) blocked it.

8 THE COURT: Right.

9 MR. HUNTER: But the fact that the 924(c)  
10 conviction is unconstitutional, Mr. Duffey now gets  
11 a higher adjustment on this group. And I think that  
12 that, in and of itself, is a concern as well,  
13 especially when it's so semantic.

14 We are talking about the difference  
15 between felon in possession of a firearm in an  
16 indictment that is surrounding by bank robberies for  
17 an offense date that is the identical date of one of  
18 those bank robberies. And the conclusion could be  
19 that we're going to apply the five-point adjustment.

20 But on the other side of the coin, if it's  
21 a 924(c) and it's use of exhibition of a firearm in  
22 furtherance of a crime of violence, which is exactly  
23 the same conduct, definitionally, then we can't  
24 entertain it.

25 THE COURT: You make a very reasoned



1 argument.

2 MR. HUNTER: Thank you, Your Honor.

3 That's that objection.

4 I have one more, but I will --

5 THE COURT: No -- yes. Thank you.

6 Ms. -- yes, Ms. Mitchell.

7 MS. MITCHELL: I also had no luck finding  
8 a case on point.

9 The -- that five-level enhancement is the  
10 only thing that accounts for there being a gun in  
11 that offense grouping at all.

12 And then, add to that the fact that  
13 there's nothing within the guidelines that prohibits  
14 double counting. Even if it were double counting,  
15 it's not impermissible double counting in this  
16 instance.

17 So it's the Government's position that  
18 that five-level enhancement should be there.

19 THE COURT: I agree with her. I think you  
20 make, as I said, a very reasoned argument about  
21 this. Leave that up to the Commission to decide.  
22 But I do think that, based on what the addendum has  
23 on page 3 through 4 of that, dealing with the  
24 two-level enhancement, and also with the  
25 Government -- I'm sorry. We're talking about a

1 five-level enhancement. Yeah.

2 Hold on.

3 It is page 2 and 3, that the reasoning  
4 there -- and I'm not going to read it. I adopt it,  
5 though. And the reasoning that the Government has  
6 in their response, as well as what she just said, I  
7 completely agree with right now.

8 Double counting is something we need to  
9 talk about, the Commission needs to talk about, but  
10 not here. I don't think it applies necessarily  
11 here, doesn't apply here, so I'm going overrule the  
12 objection.

13 Okay. Next objection.

14 MR. HUNTER: Yes, Your Honor. And this  
15 is, I guess, less than an objection than it is a  
16 contention.

17 THE COURT: I'm not going to consider his  
18 disciplinary record.

19 MR. HUNTER: Okay. Well, that takes a  
20 great deal of concern out of it.

21 But this is something that -- I apologize  
22 to the Court -- I did not brief, but I would like to  
23 argue for the record --

24 THE COURT: Okay.

25 MR. HUNTER: -- on the alternative in

1 light of the fact the Court has denied our request  
2 that the First Step Act be applied.

3 THE COURT: Um-hum.

4 MR. HUNTER: And that is that, because  
5 Count 2 was invalidated by Davis, and because  
6 Count 2 is the triggering count, in other words all  
7 the other 924(c)'s get that 25-year mandatory  
8 minimum because they are referring back to Count 2.

9 THE COURT: Um-hum.

10 MR. HUNTER: Then what we have here is, is  
11 we have essentially a building with no foundation.  
12 We -- we've lost the -- the tie-ins count of the  
13 indictment that justified application of that  
14 mandatory minimum in all of the other remaining and  
15 surviving 924(c) counts.

16 And I would submit that the Court has the  
17 power at sentencing to throw out counts of  
18 conviction where the evidence is no longer supported  
19 or where there is, in fact, a constructive amendment  
20 taking place in order for them to be properly put  
21 before the Court at sentencing.

22 So if the Court is not going to apply the  
23 First Step Act to these offenses, we would submit  
24 that the Court should nevertheless set aside the  
25 remaining 924(c) convictions in the indictment,

1 because those expressly reference back to Count 2,  
2 which was invalidated.

3 THE COURT: Okay. Thank you very much. I  
4 overrule the objection. I'm glad you noted it for  
5 the record.

6 I will tell you, Mr. Duffey, you've had an  
7 excellent defense. All three of these guys are  
8 really on top of their game. And I really  
9 appreciate that your objections have been so  
10 thorough, but I overrule them.

11 MR. HUNTER: Thank you, Your Honor.

12 THE COURT: I know the objection to --  
13 what was it? Hold on a second. Certain section was  
14 agreed to -- oh, yeah.

15 The probation officer, in the third  
16 addendum -- fourth addendum on page 2 supported the  
17 objection to paragraphs 139 and 140. As to those  
18 paragraphs, a third addendum is corrected in the --  
19 in the correction section of the third addendum.

20 Is that -- is that satisfactory to you?

21 MR. JAMPALA: It is, Your Honor.

22 THE COURT: Okay. Okay. All right.

23 So are there any other objections?

24 MR. HUNTER: That covers all of our  
25 objections, Your Honor.

1 THE COURT: Okay. Then I'm going to adopt  
2 the presentence report, its fourth and third and  
3 second addendums, as the findings and conclusions of  
4 the Court. And I'm not going to stay up here and  
5 say what the guideline range is. I'll talk about  
6 that, because it's too difficult to -- we can talk  
7 about that when I get to it. But now it's time for  
8 you to put on your case.

9 MR. JAMPALA: Yes, Your Honor.

10 We have two witnesses we would like to  
11 call before allocution.

12 THE COURT: Okay.

13 MR. HUNTER: We'll first call Anthony  
14 Lockhart.

15 THE COURT: Okay. Mr. Lockhart, come on  
16 up here.

17 MR. HUNTER: I think he's in the hallway,  
18 Your Honor.

19 I'll be right back.

20 (Pause in the proceedings.)

21 THE COURT: Mr. Lockhart, come on up here,  
22 over to the lecturn.

23 Thank you.

24 What's your name?

25 MR. LOCKHART: Anthony Lockhart.

1 THE COURT: Go ahead.

2 QUESTIONING BY MR. HUNTER:

3 Q. Could you please state your name for the  
4 record?

5 A. Anthony Cortez Lockhart.

6 Q. Mr. Lockhart, how are you employed?

7 A. Well, I have my own business. I own Amazing  
8 Kicks and Fits, in Austin, Texas.

9 Q. How long have you been doing that?

10 A. I've been doing that for like two years.

11 Q. Before that, what were you doing?

12 A. I was working at BMC Material Construction.

13 Q. Okay. And before that?

14 A. I was in prison.

15 Q. All right. How long were you in prison for?

16 A. Like nine and a half years.

17 Q. Nine and a half years.

18 Federal system?

19 A. Yes, sir.

20 Q. In that time in the Federal penitentiary, did  
21 you have a time to meet Corey Duffey?

22 A. Yes. I met him at the end of my sentence, the  
23 last 14 months.

24 Q. Last 14.

25 A. Yeah.

1 Q. If you don't mind me asking, what were you in  
2 for when you went to prison?

3 A. Possession of cocaine with intent to distribute  
4 and possession of a firearm by a felon.

5 Q. Was that your first time to get in trouble?

6 A. No, sir.

7 Q. You've been in trouble a lot before that?

8 THE COURT: But no more. Right?

9 THE WITNESS: No, no, no, ever. It's over  
10 with.

11 Q. (By Mr. Hunter) What do you attribute that  
12 change to in your life?

13 A. When I got in the Federal system, I met a guy  
14 named Corey Duffey on the last part of my sentence.  
15 And, you know, before that I stayed in a lot of  
16 trouble, you know, as the old guy. You know what  
17 I'm saying? And he's younger than I am.

18 So we had a lot of talks. We always used to  
19 talk about the streets and talk about how to better  
20 ourselves as parents, brothers and fathers. And due  
21 to the situation of putting ourselves and subjecting  
22 ourselves in the same situation, it's called  
23 insanity if you keep doing it over and over.

24 THE COURT: It is.

25 THE WITNESS: So that being said, I took

1 it into consideration. And when I was released, I  
2 didn't even go back to the same neighborhood I lived  
3 in to get myself away from the environment. And I  
4 haven't had to go back to that, and I'm not going  
5 back to that.

6 THE COURT: You're not going back. I can  
7 tell.

8 THE WITNESS: Yeah, I'm not going back to  
9 that. I've been out for like -- January 10th was  
10 five years for me.

11 THE COURT: Congratulations.

12 THE WITNESS: Yes.

13 Q. (By Mr. Hunter) Let me ask you this: You  
14 understand Mr. Duffey is here for resentencing.

15 A. Yes, sir.

16 Q. If there's something you would like Judge Boyle  
17 to know about Corey more than anything else, what  
18 would it be?

19 A. He's a great person. And he's the type of  
20 person that you can listen to from a story, because  
21 it's sincere. Everything that he does -- you can go  
22 to him about any situation and ask him about it.  
23 And it's a lot of things he's done from the inside  
24 to help people to get outside. There's no guarantee  
25 you're coming home, and I'm a firm believer of that.



1 I've seen a lot.

2 And he -- he is the person who made a lot of  
3 things clear in my vision to keep my family from  
4 being incarcerated. It's not just me, because when  
5 I went to prison, my family went with me. I didn't  
6 like that.

7 THE COURT: Thank you very much. That was  
8 very eloquent. I appreciate it.

9 MR. JAMPALA: Thank you, Mr. Lockhart.  
10 We will pass the witness.

11 THE COURT: No, no. Call your next  
12 witness. It's just a character witness.

13 MR. HUNTER: Our next witness, I believe,  
14 is Gregory Rambo.

15 THE COURT: Okay. Come on up here, sir.  
16 How are you? Go ahead. What's your name?

17 THE WITNESS: Greg Rambo.

18 THE COURT: Okay. Mr. Jampala, do you  
19 want to ask questions or just have him tell me.

20 MR. JAMPALA: Just a couple of questions  
21 Your Honor.

22 THE COURT: Sure.

23 QUESTIONING BY MR. JAMPALA:

24 Q. Can you state your name for the record?

25 A. Yeah. It's Gregory J. Rambo.

1 Q. And most of your adult life you spent in and  
2 out of prison?

3 A. Yes, a great deal; yes.

4 Q. Can you tell us briefly how many stints you  
5 did?

6 A. Oh, well, I did about four stints, different  
7 stints that I went in and out of prison. I've  
8 probably got 33 years of 60 years of my life on  
9 earth in prison.

10 THE COURT: Hmm.

11 Q. (By Mr. Jampala) And could you tell me a  
12 little bit about this last stint and how you met  
13 Corey Duffey?

14 A. Well, last stint was -- well, you know, it was  
15 uneventful from the start, because I had so much  
16 time --

17 THE COURT: You have to speak up.

18 THE WITNESS: It was pretty uneventful  
19 from the start, because I had so much time. I  
20 really didn't know what it is I was going to do  
21 after I got done doing the time I was doing.

22 But, you know, at Florence USP is when --  
23 I believe it was 2016 is when Corey had came to that  
24 facility and on the unit that we were on. So we --  
25 you know, we got to know each other, and we were

1 cellies. So during that time as cellies, I didn't  
2 know what I was going to do.

3 Because he asked me, Ram, what you gonna  
4 do when you get out, old man?

5 And I said, man, I don't know.

6 I generally got out and went back to what  
7 it is I was doing initially.

8 So he started talking to me about trucks  
9 and driving trucks. And he went on about how he  
10 drove trucks. And it was kind of interesting,  
11 because it kind of fits the person I am, being able  
12 to be out and about and, you know, roaming the  
13 earth.

14 THE COURT: Yeah.

15 THE WITNESS: So he said, man, you know,  
16 this would be good avenue for you. This right here  
17 could take care of a whole lot of things that you  
18 want to take care of. Man, you know, give it some  
19 thought.

20 So I started asking more questions. He  
21 started -- he was just readily giving me all the  
22 information I needed. So when I got out, that's  
23 what my mind was on. So when I went to see my  
24 federal parole officer, he asked me, what do you  
25 want to do?

1 I said, I want to drive trucks. I want to  
2 get my CDL.

3 Q. (By Mr. Jampala) And you now have your CDL.

4 A. Yes. Right now I'm driving for Next Level.  
5 And I had them give me a load here so I can be here  
6 today. So yeah, I'm driving for Next Level now.

7 THE COURT: That's wonderful.

8 Q. (By Mr. Jampala) And just before this, you  
9 never met people in the prison that wanted to help  
10 you the way Corey did.

11 A. You have a lot of people in prison that talk,  
12 but that's not -- they wasn't genuine with it. Him,  
13 even though he's much younger than I am, he has a  
14 whole lot of wisdom. He has a great deal of  
15 understanding. And he speaks -- basically it's like  
16 an old soul in a young body.

17 And he's very disciplined in what he does.  
18 What he says he's going to do, he does it; sticks to  
19 the script, doesn't go off course with it. So  
20 therefore, that's why I took him as for what he  
21 stated would be true and what he -- what he brought  
22 me into is -- is all the fruits of the labor of it  
23 is great, so. . .

24 THE COURT: That's so nice.

25 THE WITNESS: He pretty much saved me from

1 being -- being before you seeing 30, 40, 50 years or  
2 whatever.

3 THE COURT: I really appreciate that very  
4 much. I mean, I appreciate -- you know, you guys  
5 coming down here means so much, because you are  
6 former prisoners with him. And you're telling me a  
7 story that I have to believe, and I do believe, and  
8 it's great, and I thank you.

9 MR. JAMPALA: Thank you, Your Honor.

10 THE COURT: Okay. You can go ahead and  
11 step outside or stay in the courtroom.

12 Okay. Mr. Duffey, I would like to hear  
13 from you.

14 THE DEFENDANT: Yes, ma'am.

15 MR. HUNTER: Your Honor, I'm sorry.  
16 Before you do that, it dawned on me there was one  
17 additional objection I needed to make, and I have  
18 not made it.

19 THE COURT: All right. You can make it.

20 MR. HUNTER: I understand.

21 Your Honor, with respect to the  
22 presentence report, the restitution order in this  
23 case held Mr. Duffey jointly and severally liable  
24 for a substantial sum of money. We would ask the  
25 Court if it could to -- in light of Paraline

1 (phonetic), to reconsider its restitution order in  
2 this case and to hold Mr. Duffey only accountable  
3 for the portion directly attributable to him.

4 THE COURT: Okay. Overruled.

5 Okay. Go ahead, Mr. Duffey, come up with  
6 one of your lawyers.

7 THE DEFENDANT: Okay, Your Honor. I would  
8 definitely love to allocate, and I would like to  
9 begin with a sincere apology to all of the victims  
10 affected by my foolish acts.

11 THE COURT: Yeah.

12 THE DEFENDANT: The bank employees, the  
13 bank customers and the possible residual trickledown  
14 in effects that might have impacted their families.

15 Regarding my growth, as well as the  
16 transformation of my perspective, so far I've been  
17 at this courthouse (inaudible) is the Government's  
18 characterization. And it's obvious from the second  
19 and the third addendum to the presentence report,  
20 that the Government is going to continue to portray  
21 me as a monster before this Court.

22 The Government's addendum to the  
23 presentence report, the Government has cited  
24 numerous disciplinary infractions.

25 THE COURT: I'm not going to consider

1 those. Don't even talk about them.

2 THE DEFENDANT: Okay. Okay. I'll move  
3 on.

4 THE COURT: Okay.

5 THE DEFENDANT: However, the Government  
6 barely mentioned the well over 20 various adult  
7 continuing education courses that I completed.

8 THE COURT: Yeah. I saw those.

9 THE DEFENDANT: Critical thinking courses,  
10 psychological programs, parenting courses, financial  
11 education courses, so forth and so on, Your Honor.

12 The Government also declined to make this  
13 Court aware of the fact that I have not come close  
14 to receiving a disciplinary report in over five  
15 years.

16 It took me a little over eight years to  
17 begin to truly understand and realize the fact that  
18 the world don't owe us nothing, you know. Life,  
19 itself, is a blessing. And we have an obligation  
20 not to take life for granted. We have an obligation  
21 to contribute to society and humanity in a positive,  
22 productive and beneficial way.

23 I hate the fact that the foolishness,  
24 whatever you may call it, I've spent the majority of  
25 my life taking life for granted. It's a direct

1 insult to God, our direct ancestors and forefathers  
2 and humanity.

3 For eight years after my incarceration, I  
4 was angry, bitter, miserable, frustrated --

5 THE COURT: Yeah, I think I know that.  
6 Yeah, I think I remember that.

7 THE DEFENDANT: -- and many other things.  
8 At that time, I didn't hold myself responsible for  
9 the choices that I made that has resulted in this  
10 current incarceration that I'm facing.

11 Your Honor, this incarceration has led to  
12 my realization and understanding of many things, and  
13 has led to a lot of reflecting and soul searching on  
14 my part. There's not a week that goes by that I  
15 don't reflect upon and regret the impact that the  
16 choices that I made and the crimes that I committed  
17 have.

18 I would like to go over the psychological  
19 implications, as well as the financial implications.

20 From a psychological standpoint, I sit  
21 back and I think about, you know, you take an  
22 average bank employee to get up a minimum of five  
23 days a week to go to work, bust their butt to  
24 provide a better quality of life for themselves and  
25 their loved ones. And here I come storming in



1 dressed in dark clothing with a firearm in hand.

2 THE COURT: And a taser and body armor.

3 THE DEFENDANT: Yes, Your Honor, yes. I  
4 did not have the right to do that. It was a blatant  
5 disregard and disrespect for the well-being and the  
6 rights of others. And, again, I would like to  
7 apologize to the victim's impact of all those acts  
8 that I committed.

9 The financial implications, I'm sure just  
10 due to your profession that you know -- and you  
11 understand this more than I do -- at that time this  
12 nation was going through an economic regression due  
13 to predatory lending practices and a laundry list of  
14 other things.

15 THE COURT: Yeah.

16 THE DEFENDANT: I sit back, and I think  
17 about maybe a small business with only two or three  
18 employees just trying get by at that time --

19 THE COURT: It was awful.

20 THE DEFENDANT: And yeah. And the  
21 businesses that went under due to the money I took  
22 during those robberies.

23 Your Honor, I would like to give this  
24 Court some insight into my experiences in life just  
25 in general, as well as my experiences in prison that

1 has led to my redemption, my growth, a little bit of  
2 maturing and --

3 THE COURT: As long as you can keep it  
4 somewhat short. Okay.

5 THE DEFENDANT: Okay.

6 THE COURT: I mean, I can't have you go on  
7 and on, because we have other cases. But go ahead.  
8 Go ahead.

9 THE DEFENDANT: Okay. I'll -- I'll skip a  
10 lot of it, and I will start with school at the age  
11 of 14.

12 My mother, you know, she had a job making  
13 a little bit -- her and my father separated, been  
14 separated. She had a job making a little bit over  
15 minimum wage, you know. She worked, picked up extra  
16 shifts to kind of provide for my needs, not only my  
17 needs, but my wants. And I love her for that.

18 We stayed in a poverty stricken,  
19 crime-infested, drug-infested neighborhood. She was  
20 working extra shifts and couldn't watch me.

21 I remember coming home one night I was  
22 out. And I was jumped by four adults. And to this  
23 day, I don't know the reason. I was -- I just  
24 assume I was in the wrong place at the wrong time.

25 THE COURT: Yeah, yeah.

1 THE DEFENDANT: If you work with me here,  
2 it's going to come together.

3 THE COURT: Yeah.

4 THE DEFENDANT: Three months after that, I  
5 was shot at, and I know what that was about. At the  
6 time I didn't. I was ignorant to that fact, but now  
7 I know what it was about. I had a blue (inaudible)  
8 jacket, and I was walking through Blood territory.

9 THE COURT: Yeah, yeah.

10 THE DEFENDANT: That all changed my  
11 perspective of life. And my attitude at that point  
12 became, I will never be a victim again. And the  
13 ironic thing about that is that I let those events  
14 turn me -- I became, later on, worse than the  
15 individuals who victimized me.

16 Now, one of my values is that the  
17 confidence from incarceration that I've actually  
18 attained is that the way that we deal with adversity  
19 defines our true character.

20 I began running in the streets and  
21 associating with the wrong crowds. And as a result  
22 of that, just three short years later, shortly after  
23 my 17th birthday, I was incarcerated at the Texas  
24 Department of Criminal Justice.

25 I was released from prison. I met the

1 mother of my child, Andrea. We had our first son,  
2 Corey. We called him Baby Corey at that time.

3 I took to fatherhood with a passion. And  
4 I didn't understand it at that time, but now I  
5 definitely understand through reflection. So I took  
6 fatherhood with a passion due to the fact that I  
7 didn't have a father in my childhood. I changed  
8 diapers, spent as much time as I possibly could with  
9 my kids.

10 This led me and Andrea to really sit down  
11 and come up with a plan. The plan was I would go to  
12 truck driver training school, obtain my CDL, get a  
13 career in truck driving to financially support the  
14 household.

15 Meanwhile, Andrea would take care of the  
16 child in the household, and she would go to college  
17 to attain a degree in accounting. And once she got  
18 that degree in accounting and found employment, I  
19 would then make a decision if I wanted to go into  
20 the business side of the trucking industry or go to  
21 a trade school to do something different.

22 Andrea, she come from a close-knit family.  
23 She had a sister and a brother. Her father was  
24 offered a promotion. They relocated to a suburb of  
25 mine.

1 THE COURT: Can you cut forward a little  
2 bit? You're telling me a lot of stuff, and I don't  
3 need to know all that stuff.

4 THE DEFENDANT: Yeah, it kind of goes into  
5 just my growth. But I tell you what, I will skip  
6 that. We separated. I just -- I -- I -- we  
7 separated.

8 THE COURT: You did. You did.

9 THE DEFENDANT: Okay. I took her to the  
10 airport. They left. I went back to the house. To  
11 say I was crushed and heartbroken wouldn't begin to  
12 describe my feelings at that time. I couldn't even  
13 stay in my house. I moved forward.

14 Obviously I had a change of plans, and  
15 those change of plans started to be a pattern, and  
16 this is what I was working towards.

17 THE COURT: Bank robberies.

18 THE DEFENDANT: It goes back to I had a  
19 choice in adversity. I made a choice and entered  
20 back into the criminal lifestyle. And as a result  
21 of that, I stand before this Honorable Court today.

22 I spent the first eight years in prison.  
23 As you can see from my disciplinary record --

24 THE COURT: Yep. Not counting it, but go  
25 ahead.

1           THE DEFENDANT: I didn't get it. I  
2 started to go left. But something clicked. And  
3 I -- I personally know that it was the time that I  
4 actually spent sitting inside isolation, in a  
5 lockdown cell, if you will, as a result of my  
6 actions. Gave me time to kind of study, to read,  
7 and start to begin to understand things, transform.  
8 It was the process that planted the seed, if you  
9 will, to transform my mortality and my perspective  
10 on life, and that's what led me actually to go  
11 right.

12           I had a lot of time to really do a lot of  
13 soul searching and reflect. And in some ways this  
14 incarceration has been a blessing in disguise  
15 because of the transmission of my perspective.

16           And majority of people, as you know, with  
17 recidivism rate in this nation, that's not going to  
18 happen.

19           THE COURT: If you could sort of wrap it  
20 up.

21           THE DEFENDANT: Okay.

22           THE COURT: I'm sorry. It's just kind of  
23 long. I appreciate it very much, but . . .

24           (Discussion between attorney and client.)

25           THE COURT: I will just say, I can tell

1 you are different than you were. I can tell.

2 THE DEFENDANT: Yes, yes, yes. I have an  
3 actual program. You got a letter from a  
4 Mr. Flowers, a letter of support.

5 This is an individual that I was locked up  
6 with. We talked about the program. I'm pretty sure  
7 that you know he got a program out there. He's from  
8 DC, works with City Council and the Mayor. I got a  
9 program called Path Program. Within the first two  
10 years of release that I -- I will actually start it.  
11 I will skip ahead.

12 THE COURT: Go ahead.

13 Anything else?

14 Just go ahead.

15 THE DEFENDANT: If -- if you would allow  
16 it, I would like to kind of speak in regards to the  
17 924(c).

18 THE COURT: I've heard that from your  
19 lawyers. I really don't need to talk about that  
20 again. I'd just like you to wrap it up, because I  
21 think they have covered the 924(c)'s adequately,  
22 more than adequately, thoroughly, and I don't need  
23 anything else on that.

24 THE DEFENDANT: I mean, if --

25 THE COURT: You can say a couple of

1 sentences, but I would like for you to wrap it up.

2 THE DEFENDANT: Okay. Okay.

3 THE COURT: You can say a few sentences on  
4 it.

5 THE DEFENDANT: Thank you, Your Honor.

6 As you know, Count 2 is the original  
7 924(c) in this case. And you know it better than I  
8 do, but 924(c)(1)(A) and --

9 THE COURT: I've heard this from them. I  
10 mean, I understand what you are going to say. Just  
11 wrap it up, please.

12 THE DEFENDANT: Okay. Okay. Yeah, at  
13 this point, Your Honor, I thank the Court. I thank  
14 you for the time that you put out. First, I  
15 apologize for wasting your time.

16 THE COURT: You're not wasting my time.

17 THE DEFENDANT: I thank you for the time  
18 you put into reading this case and reading over my  
19 letters of support.

20 THE COURT: You have so many letters. It  
21 took me a good hour to go over those letters.

22 THE DEFENDANT: Okay. I thank you. I  
23 thank my attorneys for the excellent job they did.

24 THE COURT: Well, you have excellent  
25 attorneys. I don't know where they came from or how



1 they got on the case, but I'm very impressed.

2 THE DEFENDANT: If I could ask one more  
3 thing. I'm sure you're familiar with the case  
4 law -- Supreme Court case that came out a few years  
5 ago with regards to 924(c), that you can consider  
6 predicate offenses. And if you so choose to, with  
7 your discretion, that you could sentence me to what  
8 you chose to sentence me to for those predicate  
9 offenses.

10 THE COURT: Thank you very much.

11 Anything else?

12 THE DEFENDANT: That's it, Your Honor.  
13 Thank you for your time.

14 THE COURT: Thank you very much.

15 Which lawyer is going to speak? Just  
16 briefly. Just briefly.

17 MR. HUNTER: We thank you, Your Honor, for  
18 everything, for your due consideration here. It's,  
19 I think, patently clear to me, to everyone that,  
20 Mr. Duffey is a very different man --

21 THE COURT: Yeah, a very different man.

22 MR. HUNTER: -- than the person who was  
23 before you in 2008.

24 I'll share just a brief personal anecdote.  
25 This summer, my father was very ill, and I had to go

1 up to Amarillo to the hospital. And Corey called  
2 me, and we were on the speakerphone with my mother  
3 in the car. And I explained I couldn't talk at the  
4 moment and why. And he expressed his condolences  
5 and, you know, wished my father a speedy recovery.

6 And we got off the phone, my mother said,  
7 Who was that?

8 I said, A client of mine.

9 She goes, What was he charged with?

10 And I said, Well, he was convicted of some  
11 bank robberies.

12 And she laughed and she goes, That's a  
13 bank robber?

14 I think that that perhaps is one of the  
15 most glowing endorsements we can have of Mr. Duffey.

16 THE COURT: It is.

17 MR. HUNTER: Certainly we understand the  
18 Court's rulings are going to necessitate a very  
19 harsh sentence in the case. There's no way around  
20 it in light the overruling of our objections.

21 We believe that the Court should vary from  
22 the guidelines based upon this. This is an  
23 exceptional human being. This is someone who has  
24 done something that very few people can accomplish  
25 in the system. And we would ask that the Court vary

1 from the guidelines to the lowest possible sentence  
2 that can be assessed in this case.

3 And then, of course, just simply for --  
4 well, I guess at the end I will have to do what I  
5 have to do for preservation sake.

6 So I will leave it at that. Thank you  
7 very much.

8 THE COURT: Thank you very much.

9 Ms. Mitchell or Mr. Tromblay? And keep it  
10 short, please.

11 MS. MITCHELL: Your Honor, as much as  
12 Mr. Duffey may have changed in the last eight years,  
13 it doesn't change his underlying conduct and the  
14 dangerousness of that conduct and that it was, you  
15 know, essentially torture for those bank employees  
16 to have to go through.

17 It's the Government's belief that a  
18 sentence within the guideline range on those  
19 underlying offenses would be appropriate under the  
20 3553 factors. And we would ask the Court to impose  
21 a guideline sentence on the underlying and then the  
22 five years plus the 25 by four.

23 Thank you.

24 THE COURT: Thank you very much.

25 Mr. Duffey, do you want to come up with

1 one of your lawyers? Both of your lawyers? Yeah.

2 Mr. Duffey, I can see that your demeanor,  
3 even if I'm not looking at your words, your demeanor  
4 is much better. You've grown substantially in  
5 prison. And all these letters that I got, my gosh,  
6 I just -- you know, I can't overlook them.

7 And so I know you are a better person. I  
8 know you affected two prisoners' lives, if not more.  
9 I know that you had tons of support.

10 Do you have any family out here today?

11 THE DEFENDANT: Yes, Your Honor, I do.

12 THE COURT: Who is it?

13 Just stand.

14 Thank you-all very much for coming. Wow.  
15 Thank you-all very, very much for coming. I really  
16 appreciate it. You can be seated.

17 Okay. But, I mean, it doesn't get past  
18 the facts of the case. I mean, these were several  
19 violent bank robberies, takeover bank robberies with  
20 body armor, tasers, guns, all sorts of guns, leaping  
21 over the counters, hitting and tasing bank tellers  
22 who will never be the same because of it.

23 I mean, I think all the facts that I have  
24 already cited to in my previous sentencings and  
25 those facts, all combined to -- you know, the 3553

1 factors, number one, here is deterrence. And I  
2 just -- I can't have them. I just can't allow  
3 someone who committed that many bank robberies to  
4 get out early. I will -- I will -- I will  
5 seriously -- it's going to be a shorter sentence,  
6 but it's not going to be what you want.

7           There's the -- there's the nature and  
8 characteristics of the defendant. I know you're  
9 great now, but you weren't then. And -- and just  
10 the safety of the community.

11           So all of those reasons, I think, and all  
12 of the 3553 factors combined to call for the  
13 following sentence:

14           On Counts 1, 14, 15, 16, 20, 24, 28, 32  
15 and 36, 60 months in custody -- a total of 60 months  
16 in custody.

17           For Count 5, 120 months in custody to run  
18 concurrently with the 60 months.

19           And then we're going to Counts 22, 26, 30,  
20 34 and 38. That's 300 months to run concurrently  
21 with all the previous counts.

22           Then on Count 23, 60 months. But this one  
23 is going to run consecutively to the other sentences  
24 imposed.

25           And Count 27, 31, 35 and 39, 300 months to

1 run consecutively, for a total of 1,200 months in  
2 custody. It's not the 3,200 months. It's not the  
3 4,800 months. It's 1,200 months in custody.

4 And I would give this sentence regardless  
5 of the five-level, two-level enhancements, any of  
6 the enhancements that applied in this case, I would  
7 give this sentence regardless of it.

8 In addition, on all of the counts, you  
9 have five-year term of supervised release to run  
10 concurrently. That's on all the counts.

11 There's no fine.

12 The restitution is \$355,976.

13 And \$100 per count for a total of \$2,000.

14 So pursuant to the Sentencing Reform Act  
15 of 1984, it is the judgment of the Court that the  
16 defendant Corey Deyon Duffey, is committed to the  
17 custody of the Federal Bureau of Prisons for the  
18 periods I stated.

19 Pursuant to the Mandatory Victims  
20 Restitution Act of 1996, the defendant is ordered to  
21 pay restitution in the amount of \$355,976, payable  
22 to the U.S. District Clerk, 1100 Commerce, Room  
23 1452, Dallas, Texas 75242.

24 And the following entities will be  
25 reimbursed, but I will leave the details to be in

1 the judgment.

2 Bank of America for 85,000.

3 State Bank of Texas for 14,000.

4 Comerica Bank for 246,000.

5 CitiBank for 5,000.

6 And Century Bank for \$5,976.

7 If upon commencement of supervised release  
8 any part of the restitution remains unpaid, the  
9 defendant shall make payment on such unpaid balance  
10 in monthly installments of not less than 10 percent  
11 of the defendant's gross monthly income or at a rate  
12 of not less than \$50 per month, whichever is  
13 greater.

14 Payment shall begin no later than 60 days  
15 after release of defendant's confinement and shall  
16 continue each month thereafter until the balance is  
17 paid in full.

18 In addition, at least 50 percent of the  
19 receipts received from gifts, tax returns,  
20 inheritances, bonuses, lawsuit awards and any other  
21 receipt of money shall be paid toward the unpaid  
22 balance within 15 days of receipt.

23 This payment plan shall not affect the  
24 ability of the U.S. to immediately collect payment  
25 through the Treasury Offset Program, Inmate

1 Financial Responsibility Program or the Federal Debt  
2 Collection Procedures Act, anything else available  
3 under federal law.

4 Interest is waived under 18 U.S.C. Section  
5 3612(f)(3).

6 Okay. And you have 2,000 mandatory  
7 special assessment.

8 Now, you can appeal this sentence. Your  
9 attorneys can appeal this for you. You have two  
10 weeks from the date of my judgment. My judgment  
11 will probably be Friday or so, and there's two weeks  
12 to file a notice of appeal.

13 Gentlemen, would you make sure that if he  
14 wants to appeal, the notice of appeal is timely  
15 filed.

16 MR. HUNTER: Yes, Your Honor.

17 MR. JAMPALA: Yes, Your Honor.

18 THE COURT: Okay. All right. Anything  
19 else?

20 MR. HUNTER: Your Honor, I don't know if  
21 this is actually legally required anymore.

22 THE COURT: Go ahead.

23 PROBATION OFFICER: I'm sorry, Your Honor.  
24 I just want to make sure the record is clear.

25 The 1,200 months that the Court imposed



1 for Counts 27, 31, 35 and 39, those are to be  
2 consecutive to the counts, the 16 months.

3 THE COURT: Yes, consecutively. The last  
4 edition, 27, 31, 35, 39, 300 months to run  
5 consecutively.

6 PROBATION OFFICER: To each other and to  
7 the additional sentence, which would equal an  
8 aggregate sentence of 1,560 months.

9 MR. JAMPALA: Correct.

10 THE COURT: Wait a minute. Wait a minute.  
11 Sorry.

12 Come on up here.

13 This runs -- this runs concurrently with  
14 this.

15 PROBATION OFFICER: Yes, ma'am.

16 THE COURT: This runs consecutively -- no,  
17 this runs concurrently with this. This runs  
18 concurrently with that, 300 months to run  
19 consecutively, and 300 months to run consecutively.

20 PROBATION OFFICER: Correct. So an  
21 aggregate sentence would be 1,569.

22 THE COURT: So he added up wrong?

23 PROBATION OFFICER: The 1,200 is only for  
24 the 300 months for Counts 27, 31, 35 and 39.

25 THE COURT: Okay.

1                   PROBATION OFFICER: Those 300 months,  
2 that's 1,200.

3                   THE COURT: Thank you for doing that.  
4 1,567?

5                   PROBATION OFFICER: And 60.

6                   THE COURT: 60.

7                   PROBATION OFFICER: Yes, ma'am.

8                   THE COURT: Okay. Anybody disagree with  
9 that addition?

10                  MR. HUNTER: Mr. Jampala is the math --

11                  MR. JAMPALA: Not with the addition, no.

12                  THE COURT: Ms. Mitchell, do you disagree  
13 with that?

14                  MS. MITCHELL: That is the correct  
15 addition, yes.

16                  THE COURT: Okay. I don't know how -- it  
17 says -- anyway. 1,560 months is the sentence. I  
18 apologize. But, again, I would give this sentence  
19 regardless of all the enhancement, regardless of  
20 anything else that added to the sentence, I would  
21 give this sentence regardless.

22                  Okay. Anything else?

23                  MR. JAMPALA: I don't think this needs to  
24 be stated, but just for the sake of the record,  
25 can -- the Court will, of course, be crediting

1 Mr. Duffey for all the time that he has served since  
2 he was arrested on the case.

3 THE COURT: The BOP has to decide that,  
4 and I'm sure they will.

5 MR. HUNTER: I probably don't need to say  
6 this anymore, but old habits die hard.

7 In light of the Court's rulings, we would  
8 take exception to the Court's overruling of our  
9 objections, and we object to the total sentence  
10 that's been imposed.

11 THE COURT: Overruled. Thank you very  
12 much.

13 PROBATION OFFICER: One last thing, Your  
14 Honor. I'm so sorry. Just so the record is clear,  
15 for the term of supervised release, Counts 1, 5, 14,  
16 15, 16, 20, 24, 28, 32 and 36 have a cap of three  
17 years.

18 THE COURT: Okay. Okay. Three years to  
19 run concurrently with the five-year sentence.

20 PROBATION OFFICER: Yes, ma'am.

21 THE COURT: Thank you very much.

22 If there's nothing else, we will be in  
23 recess. Thank you very much.

24 (Court in recess at 11:22 a.m.)  
25

C E R T I F I C A T E

I, Shawnie Archuleta, CCR/CRR, certify  
that the foregoing is a transcript from the record  
of the proceedings in the foregoing entitled matter.

I further certify that the transcript fees  
format comply with those prescribed by the Court and  
the Judicial Conference of the United States.

This 8th day of June 2022.

s/Shawnie Archuleta  
Shawnie Archuleta CCR No. 7533  
Official Court Reporter  
The Northern District of Texas  
Dallas Division

My CSR license expires: December 31, 2022

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